

### **REMARKS**

Claims 1, 4-7, 11-13 and 18-19 are pending in the application. Claims 1 and 13 are amended with this response. Reconsideration of the pending claims is respectfully requested in view of the remarks below.

#### **I. OBJECTION TO CLAIMS 1, 4-7, 11-13 AND 18-19**

To remedy the objection to claims 1 and 13, the phrase “to determination” has been eliminated.

In addition, for claims 1 and 13, the phrase “a ratio based the counts” has been eliminated.

Lastly, in claim 1, the limitation of “if” has been rewritten as “when” in accordance with the Examiner’s request.

Accordingly, withdrawal of the objection is respectfully requested.

#### **II. REJECTION OF CLAIMS 1, 4-7, 11-13 AND 18-19 UNDER 35 U.S.C. § 103(a)**

Claims 1, 4-7, 11-13 and 18-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0058923 (Chen) in view of U.S. Patent No. 7,027,418 (Gan). Withdrawal of these rejections is respectfully requested for at least the following reasons.

- i. None of the prior art of record teaches “repeating the acts of incrementing and decrementing the counter until the count exceeds a prescribed threshold value”, as recited in claims 1 and 13.***

Chen discloses a frequency hopping method, wherein an “algorithm counts the numbers of interference events and interference-free events for each partition in a given period.” Chen p. 10, [0066]. Thus, the Chen reference -continues to count during a prescribed time period, ***regardless of the number of counts of interference and interference-free events.*** Accordingly, because a time period establishes the end of a

count cycle in Chen, Chen does not disclose the required act of “repeating the acts of incrementing and decrementing the counter until the count exceeds a prescribed threshold value,” as recited in claims 1 and 13.

Gan fails to remedy the shortcomings of Chen. Therefore, because all elements of claims 1 and 13 have not been established by the prior art of record, the applicants respectfully request withdrawal of the § 103(a) rejection.

## **II. CONCLUSION**

As the remaining claims depend either directly or indirectly from claims 1 and 13, which are now believed to be allowable, all claims are believed to be in condition for allowance. Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 50-1733, LLP113US.

Respectfully submitted,  
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